

REMARKS

The Office Action of September 30, 2005 has been received and considered. Claims 1-49 are pending. Claims 9, 27, and 35 have been amended. Reconsideration of the application in view of the preceding amendments and following remarks, and allowance of the pending claims is respectfully requested. Each of the Examiner's rejections is discussed below.

Drawings

The drawings have been objected to on the grounds that the binding secured to the inner piece with adhesive and the sweatband secured to the crown with adhesive must be shown. A new sheet of drawings with new Figs. 9, 10 is included. No new matter is included with the submission of these since the original claims included these limitations. Accordingly the drawings are now believed to be in proper form and an indication to that effect is respectfully requested at this time.

Section 112

The claims have been objected to under 35 U.S.C. § 112, on the grounds that the term "approximately" in claims 27 and 35 is a relative term, rendering the claims indefinite. Claims 9, 27 and 35 have been amended to remove the term "approximately," and are now believed to be in proper form.

Section 103

Park '572 and Smith

Claims 1-5, 8, 10, 11, 13-21, 24, 26, 28, 30-32, 34, 36, 38-41, 44, 45, 47 and 48 have

been rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,016,572 to Park ("Park '572") in view of U.S. Patent No. 5,033,122 to Smith ("Smith"). This rejection is respectfully traversed.

Park '572 discloses an article of headwear having a visor and a crown portion. Smith is cited as disclosing an inner piece sweatband where the longitudinal edges are folded to meet each other forming a seam and are covered with a binder strip.

Applicants respectfully submit that Smith fails to disclose "an inner piece formed of stretchable fabric material folded about itself such that opposing longitudinal edges of the inner piece are proximate one another to form a seam; and a binding of elastic material secured to a side of the folded inner piece having the seam," as required by independent claims 1 and 45, or "an inner piece of stretchable fabric material folded about the filler piece of elastic material such that opposed longitudinal edges of the inner piece are proximate one another to form a seam; and a binding of elastic material secured to a side of the folded inner piece having the seam," as required by independent claim 17, or "an inner piece of stretchable fabric material folded about the filler piece such that opposed longitudinal edges of the inner piece abut one another to form a seam; and a binding of elastic material secured to a side of the folded inner piece having the seam," as required by independent claim 32.

As seen in Figs. 2a-2d and 3 of Smith, the seam of Smith's absorbent pad 22 is not formed by opposed longitudinal edges of the web 26. Rather, the longitudinal edges 30 and 28 of web 26 are folded in to lines 34 and 32, respectively, creating folded edges 38, 40 that are then folded inwardly again. After the second folding step, binder lamination 24 is secured to absorbent pad 22, as seen in Fig. 3. Binder lamination 24 is not secured to a side of a folded web 26 having the required seam. Since this required limitation is not disclosed or made obvious by Smith. Accordingly, the rejection is improper and should be withdrawn.

Park '572, Smith and Shin

Claims 6, 22, 42 and 49 have been rejected under 35 U.S.C. § 103(a) over Park '572 and Smith in view of U.S. Patent No. 6,477,715 to Shin ("Shin"). Shin is cited as disclosing a binding tape to an inner headband with adhesive. This rejection is respectfully traversed.

Shin fails to overcome the deficiencies of Smith noted above. Specifically, Shin does not disclose or make obvious the inner piece folded such that longitudinal edges are proximate one another to form a seam or a binding of elastic material secured to a side of the folded piece having the seam. Accordingly, the rejection is improper and should be withdrawn.

Park '572, Smith and Piche

Claims 7, 23, and 43 have been rejected under 35 U.S.C. § 103(a) over Park '572 and Smith in view of U.S. Patent No. 5,317,761 to Piche ("Piche"). Piche is cited as disclosing a sweatband secured to an inner portion of a crown by adhesive. This rejection is respectfully traversed.

Piche fails to overcome the deficiencies of Smith noted above. Specifically, Piche does not disclose or make obvious the inner piece folded such that longitudinal edges are proximate one another to form a seam or a binding of elastic material secured to a side of the folded piece having the seam. Accordingly, the rejection is improper and should be withdrawn.

Park '572, Smith, and Nebeker

Claims 25, 33, and 46 have been rejected under 35 U.S.C. § 103(a) over Park '572 and Smith in view of U.S. Patent No. 5,566,395 to Nebeker ("Nebeker"). Nebeker is cited as

disclosing a sweatband with a sponge core filler made from rubber or latex. This rejection is respectfully traversed.

Nebeker fails to overcome the deficiencies of Smith noted above. Specifically, Nebeker does not disclose or make obvious the inner piece folded such that longitudinal edges are proximate one another to form a seam or a binding of elastic material secured to a side of the folded piece having the seam. Accordingly, the rejection is improper and should be withdrawn.

Park '572, Smith and McBride

Claims 27 and 35 have been rejected under 35 U.S.C. § 103(a) over Park '572 and Smith in view of U.S. Patent No. 6,502,245 to McBride ("McBride"). McBride is cited as disclosing a sweatband made from approximately 96% spandex and 4% spandex exhibiting similar characteristics with 2% less spandex. This rejection is respectfully traversed.

McBride fails to overcome the deficiencies of Smith noted above. Specifically, McBride does not disclose or make obvious the inner piece folded such that longitudinal edges are proximate one another to form a seam or a binding of elastic material secured to a side of the folded piece having the seam. Accordingly, the rejection is improper and should be withdrawn.

Park '572, Smith and Park '774

Claims 29 and 37 have been rejected under 35 U.S.C. § 103(a) over Park '572 and Smith in view of U.S. Patent No. 6,122,774 to Park ("Park '774"). Park '774 is cited as disclosing a binding tape cut on the bias covering the seams of a headwear article. This rejection is respectfully traversed.

Park '774 fails to overcome the deficiencies of Smith noted above. Specifically, Park

'774 does not disclose or make obvious the inner piece folded such that longitudinal edges are proximate one another to form a seam or a binding of elastic material secured to a side of the folded piece having the seam. Accordingly, the rejection is improper and should be withdrawn.

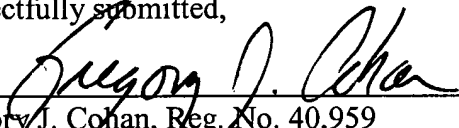
Conclusion

Consequently, pending claims 1-49 are believed to be in form for allowance, and an indication to that effect is respectfully requested at this time. Please apply any charges or credits to Deposit Account No. 19-0733.

Dated: _____

December 22, 2005

Respectfully submitted,



Gregory J. Cohen, Reg. No. 40,959
BANNER & WITCOFF, LTD.
28 State Street, 28th Floor
Boston, MA 02109
(617) 720-9600

Amendments to the Drawings:

The attached sheet of drawings includes new FIG. 9 and new FIG. 10.

Attachment: New Sheet